

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1388

Introduced by Assembly Member Ridley-Thomas

February 22, 2005

An act to add Section ~~14666.9~~ to the Government Code, relating to ~~state property~~ 16320.5 to the Government Code, and to amend Section 280 of, and to add and repeal Section 280.1 of, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1388, as amended, Ridley-Thomas. ~~State property: access by communication—networks~~ Telecommunications: California Teleconnect Fund Administrative Committee Fund: Advanced Telecommunications Education and Health Account.

Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the commission's responsibilities for the development, implementation, and administration of a program to advance universal telephone service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury, and provides that moneys in the fund, collected by telephone corporations in utility rates authorized by the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act. The annual Budget Act for 2003 provided for a loan of \$150,000,000 to the General Fund from the California Teleconnect Fund Administrative Committee Fund. Existing law provides for the repayment of that loan.

This bill establishes the Advanced Telecommunications Education and Health Account within the California Teleconnect Fund Administrative Committee Fund, and would provide that the moneys loaned by the fund to the General Fund in the annual Budget Act of 2003, be repaid to the account. The commission would be required to establish, until January 1, 2023, a Community Based Supplemental Education Demonstration Grant Program and a Telemedicine Demonstration Grant Program, meeting certain requirements, with all funding for the programs coming from the moneys deposited into the account. Awards under the grant programs would be for the use of advanced telecommunications networks to deliver supplemental education services to pupils and telemedicine services.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

~~This bill would enact the Digital Opportunity Act of 2005, to require the director, no later than May 1, 2006, and annually thereafter, to submit a report on the implementation of these provisions to the Legislature, the Department of Finance, and the Public Utilities Commission. It would also require the director, no later than January 1, 2007, to report to the Legislature, the Department of Finance, and the Public Utilities Commission on the extent to which the residents in each census tract in the state have or are likely to have access to advanced communications services networks by 2011.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares the~~
2 ~~following:~~

3 *SECTION 1. Section 16320.5 is added to the Government*
4 *Code, to read:*

5 *16320.5. (a) Notwithstanding Section 16320, the Director of*
6 *Finance shall, commencing with the 2006-07 fiscal year and*
7 *each fiscal year thereafter, transfer moneys from the General*
8 *Fund to the Advanced Telecommunications Education and*

1 *Health Account within the California Teleconnect Fund*
2 *Administrative Committee Fund, to reimburse the fund, over a*
3 *15-year period, for the amount loaned to the General Fund by*
4 *the fund pursuant to Item 8660-011-0493 of Section 2.00 of*
5 *Chapter 157 of the Statutes of 2003. The amount transferred*
6 *shall include at least ten million dollars (\$10,000,000) for the*
7 *repayment of principal on the loan, and interest on the loan.*

8 *(b) This subdivision shall remain in effect only until the earlier*
9 *of January 1, 2023, or until the Director of Finance determines*
10 *that the principal and interest on the amount loaned to the*
11 *General Fund pursuant to Item 8660-011-0493 of Section 2.00 of*
12 *Chapter 157 of the Statutes of 2003 has been repaid.*

13 *SEC. 2 Section 280 of the Public Utilities Code is amended to*
14 *read:*

15 280. (a) The commission shall develop, implement, and
16 administer a program to advance universal service by providing
17 discounted rates to qualifying schools, libraries, hospitals, health
18 clinics, and community organizations, consistent with Chapter
19 278 of the Statutes of 1994.

20 (b) There is hereby created the California Teleconnect Fund
21 Administrative Committee, which is an advisory board to advise
22 the commission regarding the development, implementation, and
23 administration of a program to advance universal service by
24 providing discounted rates to qualifying schools, libraries,
25 hospitals, health clinics, and community organizations, consistent
26 with Chapter 278 of the Statutes of 1994, and to carry out the
27 program pursuant to the commission's direction, control, and
28 approval.

29 (c) All revenues collected by telephone corporations in rates
30 authorized by the commission to fund the program specified in
31 subdivision (a) shall be submitted to the commission pursuant to
32 a schedule established by the commission. Commencing on
33 October 1, 2001, and continuing thereafter, the commission shall
34 transfer the moneys received, and all unexpended revenues
35 collected prior to October 1, 2001, to the Controller for deposit in
36 the California Teleconnect Fund Administrative Committee
37 Fund. All interest earned by moneys in the fund shall be
38 deposited in the fund.

39 (d) Moneys appropriated from the California Teleconnect
40 Fund Administrative Committee Fund to the commission shall be

1 utilized exclusively by the commission for the program specified
2 in subdivision (a), including all costs of the board and the
3 commission associated with the administration and oversight of
4 the program and the fund.

5 (e) Moneys loaned from the California Teleconnect Fund
6 Administrative Committee Fund *to the General Fund* in the
7 Budget Act of 2003, *pursuant to Item 8660-011-0493 of Section*
8 *2.00 of Chapter 157 of the Statutes of 2003*, are subject to
9 ~~Section 16320 16320.5 of the Government Code, and upon~~
10 ~~repayment are to be deposited into the Advanced~~
11 ~~Telecommunications Education and Health Account, to be~~
12 ~~expended by the commission pursuant to Section 280.1. If the~~
13 ~~commission determines a need for moneys in the California~~
14 ~~Teleconnect Fund Administrative Committee Fund, the~~
15 ~~commission shall notify the Director of Finance of the need, as~~
16 ~~specified in Section 16320 of the Government Code. The~~
17 ~~commission may not increase the rates authorized by the~~
18 ~~commission to fund the program specified in subdivision (b)~~
19 ~~while moneys loaned from the California Teleconnect Fund~~
20 ~~Administrative Committee Fund in the Budget Act of 2003 are~~
21 ~~outstanding unless both of the following conditions are satisfied:~~

22 (1) ~~The Director of Finance, after making a determination~~
23 ~~pursuant to subdivision (b) of Section 16320 of the Government~~
24 ~~Code, does not order repayment of all or a portion of any loan~~
25 ~~from the California Teleconnect Fund Administrative Committee~~
26 ~~Fund within 30 days of notification by the commission of the~~
27 ~~need for the moneys.~~

28 (2) ~~The commission notifies the Director of Finance and the~~
29 ~~Chairperson of the Joint Legislative Budget Committee in~~
30 ~~writing that it intends to increase the rates authorized by the~~
31 ~~commission to fund the program specified in subdivision (a). The~~
32 ~~notification required pursuant to this paragraph shall be made 30~~
33 ~~days in advance of the intended rate increase.~~

34 (f) Subdivision (e) shall become inoperative upon full
35 repayment or discharge of all moneys loaned from the California
36 Teleconnect Fund Administrative Committee Fund in the Budget
37 Act of 2003, *pursuant to Item 8660-011-0493 of Section 2.00 of*
38 *Chapter 157 of the Statutes of 2003.*

39 SEC. 3 Section 280.1 is added to the Public Utilities Code, to
40 read:

280.1. (a) *The Advanced Telecommunications Education and Health Account is hereby established in the California Teleconnect Fund Administrative Committee Fund. Moneys repaid to the California Teleconnect Fund Administrative Committee Fund pursuant to Section 16320.5 of the Government Code, shall be deposited into the account and upon appropriation by the Legislature, the moneys shall be expended for the purpose of providing advanced telecommunication network services to community technology programs that deliver supplemental education services to pupils in grades 6 to 12, inclusive, and to health care facilities that offer telemedicine services.*

(b) *For purposes of this section, the following terms have the following meanings:*

(1) *“Administering entity” means the entity selected pursuant to subdivision (c).*

(2) *“Community technology program” means a program that is engaged in diffusing telecommunications technology in local communities and training local communities in the use of telecommunications technology, that otherwise would have no access, or only limited access, to the Internet and other advanced telecommunications technologies.*

(3) *“Health care facility” means a facility that provides health care services directly to patients, including, but not limited to, a hospital, a clinic, including a licensed primary care clinic as defined in paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, a tribal health clinic exempt from state licensing pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, and a nonprofit rural health clinic, as defined in federal Public Law 95-210, a licensed health practitioner’s office, a health maintenance organization, a diagnostic or treatment center, a neuropsychiatric or mental health facility, a hospice, or a nursing home, and meets all of the following criteria:*

(A) *It has tax-exempt status pursuant to paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code.*

(B) *It is located in a geographic area that is either deemed under federal law, or designated by the Office of Statewide Health Planning and Development, as a medically underserved*

1 area, a health professional shortage area, or as serving, in whole
2 or in part, a medically underserved population.

3 (4) "Online learning resources" means community
4 telecommunications technology programs involved in activities
5 that include one or more of the following:

6 (A) Providing pupils with access to online courses in subject
7 areas required for graduation from middle school or high school.

8 (B) Providing pupils with access to online tutoring or to
9 support pupils' work in subject areas required for graduation
10 from middle school or high school.

11 (C) Providing pupils with a tutor that provides assistance with
12 accessing online information and digital resources for use as
13 part of homework assignments.

14 (D) Providing pupils with a tutor who will provide remedial
15 instruction using online resources.

16 (E) Preparing pupils for employment using online courses or
17 materials, or by enabling online collaboration with industry
18 professionals.

19 (F) Online coaching provided by high school or college
20 counselors or financial aid experts.

21 (5) "Telemedicine" means the practice of health care delivery,
22 diagnosis, consultation, treatment, transfer of medical data, and
23 education using interactive audio, video, or data
24 communications, consistent with Section 2290.5 of the Business
25 and Professions Code.

26 (c) The commission, in consultation with the California
27 Teleconnect Fund Administrative Committee, shall appoint a
28 third-party administrator, or more than one administrator, to
29 administer the grant programs funded by the Advanced
30 Telecommunications Education and Health Account. Any
31 third-party administrator appointed by the commission shall
32 demonstrate all of the following:

33 (1) Experience working with low-income or underserved
34 communities.

35 (2) Knowledge about, and experience in, community
36 technology programs.

37 (3) The ability to implement a process for applying for and
38 awarding grants that results in grants being awarded based upon
39 merit.

1 (4) Experience and responsibility in managing and
2 administering public trust or charitable funds.

3 (d) (1) Not more than the lesser of 5 percent of the moneys in
4 the account or five hundred thousand dollars (\$500,000) per
5 fiscal year, may be expended for the state's administration,
6 including the costs of the commission and the administering
7 entity.

8 (2) Upon the transfer of General Fund moneys to the account
9 pursuant to Section 16320.5 of the Government Code, after
10 setting aside in the account moneys for the state's administration
11 consistent with paragraph (1), 60 percent of the moneys in the
12 account shall be expended for the Community Based
13 Supplemental Education Demonstration Grant Program
14 pursuant to subdivision (e), and 40 percent of the moneys in the
15 account shall be expended for the Telemedicine Demonstration
16 Grant Program pursuant to subdivision (f).

17 (3) Upon notification by the administering entity, the
18 Controller shall pay all grant awards, for the purposes
19 enumerated in this section from the moneys in the account. The
20 eligibility of each award shall be determined solely by the
21 administering entity, consistent with any procedures or rules
22 adopted by the commission in consultation with the California
23 Teleconnect Fund Administrative Committee. Based on the
24 eligibility of each award, the administering entity shall also
25 establish the need for a multiyear commitment to any particular
26 award and so advise the Department of Finance. Eligible awards
27 submitted by the administering entity to the Controller shall be
28 accompanied by information specifying the program from which
29 payment should be made and the amount of each payment, a
30 summary description of how payment of the award furthers the
31 purposes enumerated in this section, and an accounting of future
32 costs associated with any award or group of awards known to the
33 administering entity to represent a portion of a multiyear funding
34 commitment.

35 (e) (1) Upon the transfer of moneys from the General Fund to
36 the account pursuant to 16320.5 of the Government Code, the
37 commission shall establish the Community Based Supplemental
38 Education Demonstration Grant Program to demonstrate the
39 benefits of community technology programs that use the
40 advanced telecommunications networks of California's

1 *educational entities to deliver supplemental educational services*
2 *to pupils.*

3 *(2) Consistent with any procedures or rules established by the*
4 *commission, in consultation with the California Teleconnect*
5 *Fund Administrative Committee, the administering entity selected*
6 *by the commission pursuant to subdivision (c), shall provide*
7 *community technology programs with grants pursuant to the*
8 *Community Based Supplemental Education Demonstration Grant*
9 *Program. Grants shall be awarded on the basis of competitive*
10 *merit, for a three-year period, subject to criteria to be*
11 *established by the commission, in consultation with the*
12 *California Teleconnect Fund Administrative Committee, by July*
13 *1, 2006. The criteria shall ensure that funds are widely*
14 *disbursed, and available to both urban and rural areas. Grants*
15 *shall be awarded to qualifying community-based nonprofit*
16 *organizations that are exempt from taxation under Section*
17 *501(c)(3) of the Internal Revenue Code for the purpose of*
18 *funding projects that demonstrate the capacity for community*
19 *technology programs to increase the academic achievement of*
20 *pupils in grades 6 to 12, inclusive, through the use of online*
21 *learning resources. Grants may be renewed on an ongoing basis,*
22 *every three years, provided that the community technology*
23 *program can demonstrate that the program has contributed to*
24 *the academic achievement of pupils served.*

25 *(3) Beginning July 1, 2006, a community technology program*
26 *may apply for and receive grants pursuant to the Community*
27 *Based Supplemental Education Demonstration Grant Program,*
28 *to pay costs associated with all of the following:*

29 *(A) All of the one-time costs for installing circuits that*
30 *transmit data at or above 1.54 megabytes per second between the*
31 *community technology program's site and a county office of*
32 *education, a campus of the California Community Colleges, a*
33 *campus of the California State University, or a campus of the*
34 *University of California.*

35 *(B) Up to an additional 30 percent of the amount that the*
36 *community technology program is otherwise eligible to receive*
37 *pursuant to Section 280.*

38 *(C) Up to 50 percent of the estimated amount that a campus of*
39 *the California Community Colleges, a campus of the California*
40 *State University, or a the campus of the University of California*

1 would otherwise be eligible to receive if the campus were eligible
2 to receive discounts pursuant to Section 280, not including any
3 costs related to telephone service.

4 (4) Recipients of grants under the Community Based
5 Supplemental Education Demonstration Grant Program shall be
6 required, as a condition for the receipt of moneys under the
7 program, to annually report to the commission by January 1 of
8 each year, that information required by the commission to
9 evaluate the effectiveness of the program.

10 (5) The commission shall report to the Governor and the
11 Legislature by April 1 of each year, on the results of the
12 Community Based Supplemental Education Demonstration Grant
13 Program, including the effect of the program on broadband
14 subscription.

15 (6) The procedures and rules for awarding grants shall ensure
16 that the grants awarded do not exceed annual moneys available
17 to support the program and that no one applicant receive more
18 than 25 percent of the designated program funds in a single
19 fiscal year.

20 (7) Any costs associated with the Community Based
21 Supplemental Education Demonstration Grant Program shall
22 only be paid from the Advanced Telecommunications Education
23 and Health Account.

24 (f) (1) Upon the transfer of moneys from the General Fund to
25 the account pursuant to 16320.5 of the Government Code, the
26 commission shall establish the Telemedicine Demonstration
27 Grant Program to demonstrate the benefits of health care
28 facilities that use advanced telecommunications networks of
29 California educational entities or other public networks to
30 deliver telemedicine services.

31 (2) Consistent with any procedures or rules established by the
32 commission, in consultation with the California Teleconnect
33 Fund Administrative Committee, an administering entity selected
34 by the commission pursuant to subdivision (c), shall provide
35 health care facilities with telemedicine grants pursuant to the
36 Telemedicine Demonstration Grant Program. Grants shall be
37 awarded on the basis of competitive merit, for a three-year
38 period, subject to criteria to be established by the commission, in
39 consultation with the California Teleconnect Fund
40 Administrative Committee, by July 1, 2006. The criteria shall

1 ensure that funds are widely disbursed, and available to both
2 urban and rural areas. Grants shall be awarded to a qualifying
3 health care facility approved for discounts pursuant to Section
4 280. Grants may be renewed on an ongoing basis every three
5 years, provided that the health care facility can demonstrate
6 effective utilization of telemedicine resources by the local
7 community.

8 (3) Beginning July 1, 2006, a qualifying health care facility
9 approved for discounts pursuant to Section 280, may apply for
10 and receive grants pursuant to the Telemedicine Demonstration
11 Grant Program, to pay costs associated with all of the following:

12 (A) All of the one-time costs for installing circuits that
13 transmit data at or above 1.54 megabytes per second between the
14 health care facility and ____.

15 (B) Up to an additional 30 percent of the amount that the
16 health care facility is otherwise eligible to receive pursuant to
17 Section 280.

18 (C) Up to 50 percent of the estimated amount that a health
19 care facility would otherwise be eligible to receive if the health
20 care facility were eligible to receive discounts pursuant to
21 Section 280, not including any costs related to telephone service.

22 (4) Recipients of grants under the Telemedicine
23 Demonstration Grant Program shall be required, as a condition
24 for receipt of moneys under the program, to annually report to
25 the commission by January 1 of each year, that information
26 required by the commission to evaluate the effectiveness of the
27 program.

28 (5) The commission shall report to the Governor and the
29 Legislature by April 1 of each year, on the results of the
30 Telemedicine Demonstration Grant Program.

31 (6) The procedures and rules for awarding grants shall ensure
32 that the grants awarded do not exceed annual moneys available
33 to support the program and that no one applicant receives more
34 than 25 percent of the designated program funds in a single
35 fiscal year.

36 (7) Any costs associated with the Telemedicine Demonstration
37 Grant Program shall only be paid from the Advanced
38 Telecommunications Education and Health Account.

39 (g) This section shall remain in effect only until January 1,
40 2023, and as of that date is repealed, unless a later enacted

1 *statute, that is enacted before January 1, 2003, deletes or extends*
2 *that date.*

3 ~~(a) It is the intent of the Legislature to promote the~~
4 ~~accelerated deployment of next-generation broadband networks~~
5 ~~in California, irrespective of the technological platform used to~~
6 ~~deploy those services, whether through wireless, Internet, cable,~~
7 ~~satellite, or telecommunications networks.~~

8 ~~(b) Information and advanced communications services are the~~
9 ~~foundations for California's continued technological and~~
10 ~~economic leadership. It has been estimated that the widespread~~
11 ~~deployment of information and advanced communications~~
12 ~~services networks can generate an increase of over \$300 billion~~
13 ~~in the states' incremental gross domestic product and nearly two~~
14 ~~million new jobs for the State of California over a 10-year~~
15 ~~period.~~

16 ~~(c) Accelerated deployment of information and advanced~~
17 ~~communications services infrastructure is a critical component of~~
18 ~~the state's economic development and an improved quality of life~~
19 ~~for its constituency.~~

20 ~~(d) In order to support the goal of accelerated deployment of~~
21 ~~information and advanced communications services, state entities~~
22 ~~should ensure prompt access to public lands by expediting and~~
23 ~~streamlining rights-of-way access for the deployment of~~
24 ~~information and advanced communications services~~
25 ~~infrastructure. [PU EXTERNAL SOURCE]~~

26 ~~SEC. 2. Section 14666.9 is added to the Government Code, to~~
27 ~~read:~~

28 ~~14666.9. (a) This section shall be known and may be cited as~~
29 ~~the Digital Opportunity Act of 2005.~~

30 ~~(b) It is the public policy of the state to do all of the following:~~

31 ~~(1) Ensure that all communities in the state have access to~~
32 ~~advanced communications services networks.~~

33 ~~(2) Promote the availability of a wide range of~~
34 ~~communications services to residents of this state at reasonable~~
35 ~~cost, including the rapid accelerated deployment of information~~
36 ~~and advanced communications services networks in the state.~~

37 ~~(3) Encourage and expedite the introduction of new services;~~
38 ~~the entry of new providers, and the development of new~~
39 ~~technologies, and increase investment in the communications~~
40 ~~services infrastructure of this state.~~

1 ~~(4) Improve the opportunities for economic development and~~
2 ~~the delivery of communications services.~~

3 ~~(e) Notwithstanding Section 7550.5, no later than May 1,~~
4 ~~2006, and annually thereafter, the Director of General Services~~
5 ~~shall submit a status report to the fiscal and policy committees of~~
6 ~~the Legislature, the Department of Finance, and the Public~~
7 ~~Utilities Commission on the implementation of Section 14666.8,~~
8 ~~which shall include, but not be limited to, the following~~
9 ~~information:~~

10 ~~(1) A summary of the number of sites and location of real~~
11 ~~property identified pursuant to Section 14666.8.~~

12 ~~(2) Efforts by the director to ensure that providers of wireless~~
13 ~~telecommunications facilities are aware of the availability of the~~
14 ~~inventory developed pursuant to Section 14666.8.~~

15 ~~(3) The number of providers of wireless telecommunications~~
16 ~~facilities that have acquired the inventory developed pursuant to~~
17 ~~Section 14666.8.~~

18 ~~(4) The number of providers that have requested access to~~
19 ~~state-owned real property.~~

20 ~~(5) The number of providers that have been granted access to~~
21 ~~state-owned real property.~~

22 ~~(6) An estimate of the number of providers that will request~~
23 ~~and be granted access to state-owned real property by July 1,~~
24 ~~2011, and the anticipated revenues that will be generated for the~~
25 ~~Digital Divide Account pursuant to subdivision (b) of Section~~
26 ~~280.5 of the Public Utilities Code.~~

27 ~~(d) Notwithstanding Section 7550.5, no later than January 1,~~
28 ~~2007, the Director of General Services, in consultation with the~~
29 ~~Director of Transportation and the Public Utilities Commission,~~
30 ~~shall report to the fiscal and policy committees of the Legislature,~~
31 ~~the Department of Finance, and the Public Utilities Commission~~
32 ~~on the extent to which the residents in each census tract in the~~
33 ~~state have or are likely to have access to advanced~~
34 ~~communications services networks by 2011. The report shall~~
35 ~~identify areas within census tracts that are not likely to have~~
36 ~~access to advanced communications services networks by 2011,~~
37 ~~identify the issues or barriers to access, and potential solutions~~
38 ~~for encouraging the deployment of advanced communications~~
39 ~~services networks in those regions.~~

1 ~~(e) Nothing in this section alters the rights provided to~~
2 ~~telegraph or telephone corporations pursuant to Section 7901 of~~
3 ~~the Public Utilities Code.~~

O